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COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 29 January 1990, at 11 a.m.

Temporary Chairman: Mr. BOSSUYT (Belgium)
Chairman: Mrs. QUISUMBING (Philippines)

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The meeting was called to order at 11.25 a.m.

OPENING OF THE SESSION

1. The TEMPORARY CHAIRMAN declared open the forty-sixth session of the Commission on Human Rights.

2. The year 1989 had been particularly rich in important events that had to no small degree been influenced by human rights issues. A number of areas that had long been of concern to the Commission were undergoing great change; unfortunately, in other areas, the situation remained deadlocked.

3. The Commission welcomed the successful holding of elections in Namibia under United Nations auspices and the fact that the territory was, at long last, to accede to independence in 1990. Nevertheless, South Africa itself, where the old system of apartheid was still in force, continued to be a subject of grave concern, despite a number of signs which gave reason to hope that, even there, the situation had finally begun to evolve. It might not be too presumptuous to hope that the Commission would soon have the pleasure of welcoming the release of Nelson Mandela, which would mean that the Government of South Africa was finally ready to start a dialogue on the eventual eradication of apartheid.

4. The Middle East also remained a subject of great concern. The uprising of the Palestinian people in the occupied territories required a response other than that given by the occupying Power. A number of political initiatives had also failed to receive appropriate attention, and that had led to growing impatience.

5. It was to be hoped that every effort would be made to reach a general consensus on the ways in which the Commission's concern about the human rights situation in southern Africa and the Middle East, the two areas of the highest priority in its agenda for many years, should be formulated. That was the best way in which the Commission could contribute to a favourable settlement in those areas.

6. Speaking on another situation that had been of priority concern to the Commission for the past 15 years, he welcomed the positive developments in Chile, where free elections had been held and a democratically elected President was soon to take power.

7. The recent winds of change had overthrown political régimes and economic systems, the crumbling of the Berlin Wall being the most striking symbol thereof. Human rights had played a preponderant role in those developments. The thirst for freedom was universal, and even decades of repression had not succeeded in stifling such aspirations. On the contrary, the courage and determination of those who had been oppressed had been a direct result of the duration and severity of the repression. The joy, enthusiasm and emotion of men and women who had suddenly recovered their freedom was a moving sight. He paid tribute to those persons who, though unarmed, had shed their blood so that their fellow citizens might be free.

8. The assertion had been made on occasions in the Commission that differing notions of human rights existed on different continents and were a function of the political or economic systems in force in a given country. Anyone who had followed the recent world developments could see that that was not so and that people living in many different countries with many different political and economic systems had fought and even given their lives for freedom and human rights in their countries. Everywhere, people wanted freedom. Nowhere did people believe that Governments had the right to imprison them, torture them or kill them for their dissenting opinions.

9. The events of the past year had not come about of their own accord. They had required the perseverance, determination and sacrifices of exceptional men and women who for years had fought under very difficult circumstances for their ideas. He would shortly propose a tribute to perhaps the most famous among them, who had recently died, as typifying all those persons throughout the world who had campaigned so courageously and unselfishly in the cause of human rights.

10. The changes witnessed had also been the work of those political leaders who had had the courage to reject outdated methods and question apparently sacrosanct theories, even though those theories were at the very foundation of their power.

11. Despite such favourable developments, a number of other problems had had an adverse impact on human rights throughout the world. No continent had been spared ethnic and minority tensions. The risk of conflict existed in any State composed of more than one ethnic group. Wisdom, tact and, if necessary, firmness were required to combat nationalism and promote greater justice, which alone could improve mutual understanding. The question of the rights and obligations of minorities would certainly taken on even greater importance, and both the Commission itself and the Sub-Commission on Prevention of Discrimination and Protection of Minorities had still many challenges to face in that area.

12. The need for the Commission to make its voice heard had never been so great as in the past year, and it was no longer adequate for it to meet once a year only and remain silent for the rest of the time. The Commission's working methods must be re-examined. The increased importance of human rights in international relations meant that it had a greater role to play. The interest of Governments and non-governmental organizations in the work of the Commission was growing, and the number of questions that it was required to consider continued to increase.

13. However, it had become more and more difficult to follow all the work of the Commission, even in the case of States that could afford to send large delegations. That was prejudicial to the smooth functioning of the Commission's sessions and could even have an adverse impact on human rights in certain countries. Moreover, delegations were hard put to familiarize themselves properly with the documents submitted.

14. In the past, the Commission had failed to make its voice heard on numerous occasions when human rights were violated. In the future, it must be less concerned about the risks of displeasing Governments that violated human rights and more concerned about the victims of those violations.

TRIBUTE TO THE MEMORY OF MR. ANDREI SAKHAROV

15. On the proposal of the Temporary Chairman, the members of the Commission observed a minute of silence in tribute to the memory of Mr. Andrei Sakharov.

16. Mr. STANEVSKI (Union of Soviet Socialist Republics) thanked the Commission for its tribute to the memory of his illustrious compatriot.

STATEMENT BY THE UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS

17. Mr. MARTENSON (Under-Secretary-General for Human Rights) said that much had already been accomplished in the short period since the Commission on Human Rights had been established. Even recently, any reference to the human rights situation in a specific country had been called "out of order", and the Secretariat could not receive letters from individuals complaining of alleged human rights violations in their own country. The Universal Declaration of Human Rights, a beacon of hope for millions, had been implemented in a way that had not even been imagined at its adoption. Changes of an unprecedented magnitude had taken place in recent years. New avenues for diplomatic and political action had emerged, and the aspirations of the peoples of the world for human rights, freedom and justice were increasingly being realized.

18. The insistence of the drafters of the Universal Declaration that respect for human rights and dignity were a prerequisite for peace and security in the world had increasingly been vindicated. Yet the watchword of human rights was vigilance, and it was important not to be lulled into a false sense of euphoria. States engaged in far-reaching transformations must be encouraged to ensure respect for the rule of law as the basis for all future progress.

19. The momentous developments that had recently been witnessed were the result of many factors, not least of which was a general improvement in the international climate, and particularly in the relations between the United States and the Soviet Union, and a distinct shift from confrontation to co-operation. Changes of that magnitude could not, however, have been achieved without the patient efforts of the international community within the framework of the United Nations system.

20. If human rights were to be respected, the democratic process currently taking place throughout the world must produce real democratic institutions and Governments that respected the provisions of the Universal Declaration. Secondly, human rights and fundamental freedoms had to be respected within that democratic process, something which was not automatically ensured. Particular attention must be focused on the question of diverse cultural, national and ethnic specificities. At perhaps no time since its establishment had it been more important for the United Nations to promote respect for such differences and to support appropriate national and international machinery. Thirdly, democracy could hardly survive without social justice and guarantees for a basic standard of living. People everywhere must be able to expect a minimum standard of human dignity. Fourthly and finally the Commission must focus on ways and means of making the fruits of democratic change and respect for human rights more accessible to everyone, whether through dialogue, assistance or mutual understanding.

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21. In that context, few individuals had done more to bring about that objective than the late Andrei Sakharov, to whose memory the Commission had just paid tribute. His had been a vision that was as unwavering as it was clear-sighted, and his courage served as an example for all those striving to improve the conditions of their fellow men and women throughout the world. In Andrei Sakharov, the cause of human rights had found an inspiration and a champion: his memory could best be honoured by maintaining the fight for justice and human dignity in the face of indifference and intolerance.

22. The universal demand for tangible results in the field of human rights was a major challenge to the United Nations. Each area of the human rights programme, including research and standard-setting, implementation or technical assistance and public information, had an important contribution to make towards that end. Members of the Commission must strengthen and improve the existing procedures for the promotion and protection of human rights while encouraging new efforts in that regard.

23. It would be both timely and appropriate for the international community to take stock of the achievements in the field of human rights and the developments that had occurred since the last international human rights conference held at Teheran more than 20 years previously. The challenges facing the international community, and the potential for far-reaching advances in human rights, which might transform the course of history, rendered the holding of such a meeting particularly compelling. The General Assembly had requested the Secretary-General to seek the views of governments, specialized agencies and non-governmental organizations, and to report to the Assembly at its next session in 1990. That was an important political decision, and if convened, such a conference could map out goals and activities for many years to come. Ample preparations for the conference should be undertaken at national and regional levels, with the participation of non-governmental organizations and academic institutions. The conference could also review the efficiency and effectiveness of existing machinery in the field of human rights, as well as other similar issues.

24. The Commission could begin the process of reviewing the human rights machinery with a view to increasing its effectiveness and bringing the Commission's work more into line with current realities and experience in the field of human rights.

25. During the previous year, United Nations standard-setting activities in the field of human rights had taken another important step forward. The General Assembly had, at its most recent session, adopted the Convention on the Rights of the Child. At the ceremony marking the opening of the Convention for signature, 60 countries - an unprecedented number - had expressed their support for the new instrument. The General Assembly had also adopted the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. Furthermore, a draft International Convention on the Protection of the Rights of All Migrant Workers and Their Families was in the final stage of elaboration by the General Assembly, and a large number of draft declarations on fundamental human rights issues were being considered by various human rights bodies.

26. Thus, an important aspect of United Nations action in the field of human rights was, and would remain, the clarification and progressive development of international human rights law.

27. However, while the body of legislation available to the international community for the promotion and protection of human rights was already quite comprehensive, it could not in itself guarantee the universal enjoyment of those rights. Indeed, the effective implementation of human rights instruments and their translation into universal reality, which was currently at the heart of United Nations efforts in the field, required a strong commitment by all concerned, and primarily by Governments. In recent years, the United Nations had set up a complex but effective system aimed at the universal implementation of internationally accepted human rights standards. The task of implementation was carried out primarily by the Commission and the human rights bodies set up under the Covenants and other international conventions.

28. The increase in the number of human rights instruments and the complexity of their monitoring mechanisms had recently revealed the need for co-ordination and rationalization of all activities relating to them. Measures must be taken by the United Nations to make the implementation procedure more effective and to resolve the main problems relating to the reporting and monitoring systems established under the various international human rights instruments.

29. Pursuant to a decision of the General Assembly, a meeting of the chairmen of the human rights treaty bodies had been convened by the Secretary-General at Geneva to deal with those issues. The Chairman of the Commission had also participated in the meeting. The conclusions and recommendations of the chairmen had been made available to the General Assembly and the Commission at their most recent sessions.

30. As a result of the meeting, and the relevant decisions adopted by the General Assembly and the Commission, a number of actions had been initiated by the United Nations to strengthen the functioning of the implementation procedures. In addition, the General Assembly, the Commission and the treaty bodies had made suggestions for streamlining, rationalizing and otherwise improving reporting procedures under human rights instruments.

31. Thus, the General Assembly, at its most recent session, had drawn particular attention to issues such as advisory services and technical assistance projects for States parties to human rights instruments, possible solutions to the current financial difficulties of the treaty bodies, and the convening of a second meeting of the chairmen of the treaty bodies in 1990.

32. While considerable progress had been made in the field of human rights since the adoption of the Universal Declaration, violations of the most fundamental rights continued to cast a shadow, in all regions, on the conscience of humanity. Serious violations were dealt with by the General Assembly, the Commission and the latter's subsidiary organs in addition to the relevant treaty bodies. No part of the world was immune from United Nations scrutiny on human rights issues and the States concerned increasingly accepted the legitimacy of United Nations investigation, invited on-site visits and responded to frequently critical reports.

33. Serious phenomena such as disappearances, torture and summary or arbitrary executions, mercenaries or religious intolerance were dealt with by special rapporteurs on a world-wide basis, with the constant participation of non-governmental organizations, and urgent appeals were conveyed to Governments on the basis of reliable information. The special rapporteurs' yearly reports were also scrutinized by the Assembly, the Commission and the media. The contribution of NGOs to the Commission's work was crucial and extensive, and their collaboration would no doubt continue in a constructive spirit.

34. Essential as those mechanisms were, however, national infrastructures were the key to preventing or redressing violations. That was why more action was being geared towards strengthening national institutions where they were most needed, and providing assistance and training for those who administered justice and enforced the law in individual countries. The approach was specific and pragmatic, based on the belief that strong national infrastructures were crucial for the promotion and protection of human rights.

35. Activities under the revitalized programme ranged from assistance in setting up human rights centres to expert advice on legislation to meet international human rights standards; from training administrators to providing expert assistance; from creating fellowships to establishing law libraries and faculties; and from the translation into local languages of basic human rights instruments to other ad hoc forms of technical support, in accordance with each country's specific requirements. Experience had shown that such programmes could play an invaluable role in fostering a national consensus and in strengthening national infrastructures relating to human rights. The goal was the widest possible implementation of human rights standards and procedures.

36. The provision of advisory services and technical assistance was an increasingly crucial component of the Commission's programme in supporting national infrastructures and nurturing fledgling institutions. The Commission was making every endeavour to respond to the numerous requests it had also received from eastern European countries. The establishment of the Voluntary Fund had made a significant difference to the Commission's capacity to meet growing requirements, and he urged Member States to consider contributing to it.

37. In some cases, activities under the programme had made a direct contribution to the formation of national human rights commissions or offices, or had facilitated the ratification of international instruments, notably the Optional Protocol to the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In other cases they had hastened the alignment of national legislation with international instruments and improved the reporting of States parties to the various treaty bodies.

38. However, those activities, although a useful adjunct to the existing investigation and monitoring procedures, did not exempt any recipient State from scrutiny of possible human rights abuses. Indeed, advisory services and technical assistance were often provided to countries also visited by special rapporteurs on phenomena such as summary executions or torture. One activity did not exclude the other.

39. Respect for human rights was essential not only for peace, freedom and justice, as stated in the Universal Declaration, but also for sustainable economic development; human rights and development were increasingly recognized as interdependent. At the Commission's request, high-level representatives from development, financial and human rights sectors had attended an international consultation earlier that month, dealing with some of the most crucial questions faced by the developing world and providing elements for the Commission's consideration and possible action. He hoped that the recommendations of that consultation, which would to be made available to the Commission, would also contribute to the United Nations development strategy for the rest of the century, which was to be addressed at a forthcoming special session of the General Assembly.

40. In that connection, he stressed the importance the Centre attached to the exercise of all human rights - civil and political as well economic, social and cultural. The time had come to aim at the concurrent enjoyment of the whole spectrum of rights. Laws and mechanisms alone were not sufficient, however; people everywhere must be aware of their rights before the latter could be respected and protected. Information and education were indispensable tools for the purpose; the General Assembly and other legislative bodies had repeatedly emphasized their importance, and Governments, the United Nations system and non-governmental organizations throughout the world had made efforts to that end as part of the fortieth anniversary of the Universal Declaration and of the world-wide campaign for human rights, launched on 10 December 1988. The task was to help translate the fundamental message of the Universal Declaration into reality for everyone, and the campaign had begun to engage the activities of the Organization, Member States and the wide community of regional institutions, NGOs and the mass media, in order to promote public awareness of human rights in every country.

41. The international media had helped greatly in that task. During 1989, human rights issues had been covered more than ever before by radio, television and newspapers and other printed media - a most welcome development, as was the increase in ratifications of international instruments and the establishment of national human rights institutions in many parts of the world, trends which were bound to enhance the scope and effectiveness of the Centre's activities.

42. The Centre had paid special attention, in that connection, to collaboration with regional bodies such as the Council of Europe and the Inter-American Commission on Human Rights, the newly established African Commission on Human and Peoples' Rights, and the human rights institutions in Strasbourg, France, San José, Costa Rica, and San Remo, Italy. It had also assisted in the establishment of an African Centre for Democracy and Human Rights Studies in Banjul, Gambia and an Arab Institute of Human Rights, at Tunis, with which the Centre was endeavouring to establish a comprehensive programme of co-operation for the Arab region.

43. The campaign thus sought to build up a universal understanding that human rights and fundamental freedoms were inherent in all human persons without any distinction; it was essential to ensure that the voice of human rights was heard in the furthest reaches of international society.

44. Human rights were central to the work of the United Nations. Unless they were respected, no efforts -- whether in international peace and security or in economic, social and cultural development - could possibly succeed, since they would have no solid foundations.

45. While the demands on the Centre were growing, its capacity to respond was not. The Centre's human and financial resources were no longer commensurate with requirements, and any new mandate would have to be funded appropriately rather than "within existing resources".

46. The international climate had become more temperate during the past year, but its further improvement would be neither sure nor sustained without a broad respect for human rights, which remained, despite progress in some areas, an all-too-distant dream for countless men, women and children throughout the world. The response must be one of international solidarity, in an awareness that the undertakings were not abstract but aimed at bringing hope, redress and succour to those most in need.

47. Past progress must be consolidated, and the ever-growing human rights challenges of the new decade must be squarely met. That global enterprise needed, more than ever, the support and commitment of all those aware that the advent of a peaceful world would not be achieved without respect for human rights. He was convinced that the Commission's vision and guidance would bring the enjoyment of human rights and fundamental freedoms by every individual on Earth a step closer. That enormous task would certainly remain a great challenge for the rest of the decade and doubtless beyond.

48. He hoped that at its current session, the Commission would address the issues before it pragmatically, in a spirit of constructive dialogue and co-operation, taking full advantage of the improvement in international relations and assured it of the Secretariat's full support in its important task.

ELECTION OF OFFICERS (item 1 of the provisional agenda)

49. Mr. MARKIDES (Cyprus) nominated Mrs. Valera Quisumbing (Philippines) for the office of Chairman.

50. Mr. SENE (Senegal) and Mr. HELLER (Mexico) supported the nomination.

51. Mrs. Valera Quisumbing (Philippines) was elected Chairman by acclamation.

52. Mr. ENDREFFY (Hungary), speaking on behalf of the Group of East European countries, nominated Mr. Ditchev (Bulgaria) for the office of Vice-Chairman.

53. Mr. HELLER (Mexico), speaking on behalf of the Group of Latin American countries, nominated Mrs. Regazzoli (Argentina) for the office of Vice-Chairman.

54. Mr. AZIKIWE (Nigeria), speaking on behalf of the Group of African countries, nominated Miss Sinegiorgis (Ethiopia) for the office of Vice-Chairman.

55. Mr. Ditchev (Bulgaria), Mrs. Regazzoli, (Argentina) and Miss Sinegiorgis (Ethiopia) were elected Vice-Chairmen by acclamation.

56. Mr. STEEL (United Kingdom), speaking on behalf of the Western European and other States, nominated Mr. Hynes (Canada) for the office of Rapporteur.

57. Mr. Hynes (Canada) was elected Rapporteur by acclamation.

58. Mrs. Quisumbing (Philippines) took the Chair.

59. The CHAIRMAN, having thanked the members of the Commission for the honour done to her country by electing her as Chairman of the Commission at its forty-sixth session, said that her election constituted an implementation by the United Nations of its programme to enhance the role and status of women. In that connection, she mentioned that she was following in the footsteps of two distinguished predecessors as lady chairman. Mrs. Eleanor Roosevelt, who had presided over the Commission at its first six sessions from 1947 to 1950, and Her Imperial Highness, Princess Ashraf Pahlavi of Iran, who had been elected as Chairman of the Commission at its twenty-sixth session in 1970.

60. The Commission's task was currently to provide continuity even as it found new directions for the path towards the full realization of human rights. Many positive changes had recently taken place, such as the march of democracy in Eastern Europe and the restoration of democracy in Latin America and Asia. Democracy had stood the test of time and would continue to endure. As the human person was the core of those dynamic developments, more changes would occur in the future. However, members were concerned that those changes had not yet taken place where they were most urgently needed, and it was to be hoped that apartheid in South Africa would soon be eradicated.

61. One of the major challenges confronting the Commission at its current session was how to nurture newly restored and emerging democracies. Their fragile structures were expected to face threats from tremendous counter-forces. While many of those buffeting winds blew in from past colonial or similar experiences, there were equally serious factors exacerbating political instability, such as economic and social imbalances and non-respect for cultural values. Above all, there was still widespread ignorance of the true content, meaning and applicability of human rights both among those entrusted with the duty of protecting them and among the victims of human rights violations.

62. Those recent experiences showed the incessant struggle between the philosophy and culture of respect for human rights and peace, on the one hand, and the counter-culture of violence and violations of those rights, on the other. The United Nations in general and the Commission in particular had provided the forum for the search for ways to bridge the difficult gap between peace and violence, and that between human beings and the realization of the rights which were inherently theirs.

63. The formula set down by the international community was embedded in the Charter of the United Nations and the Universal Declaration of Human Rights. The Commission had turned the provisions of those documents into legally binding instruments, and more and more States were becoming parties to them. Over the years, the Commission had drafted other instruments and set up various complementary mechanisms, such as special procedures and advisory services.

64. The peoples of the world had entered into a covenant 45 years previously and established the United Nations in order to save succeeding generations from the scourge of war. To achieve that end, they had reaffirmed their faith in fundamental human rights and sought to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law could be maintained and to promote social progress and better quality of life in larger freedom.

65. The culture of human rights had prevailed but it was being constantly challenged and overpowered by a counter-culture. The scourges of apartheid, foreign occupation, torture, summary execution, involuntary disappearances, discrimination, intolerance, persecution, underdevelopment, mass poverty, want and fear were but some of the painful manifestations of that counter-culture. The resolutions and work of the Commission reminded members of those harsh realities as well as of the resolute efforts being made by the international community through the Commission, be it in standard-setting, implementation mechanisms or advisory services.

66. As for the question whether right would ultimately triumph over wrong, the essential guarantee was faith in the capacity of every human being to respect basic human rights and fundamental freedoms and to prefer peace to violence. That was the foundation of the universal culture of human rights which had to be cultivated through dialogue and co-operation. There was no need to search for new ideologies to fill what some perceived as an ideological vacuum. There would always be an adequate ideology, namely, the ideology enshrined in the Charter of the United Nations, of respect for human rights, which recognized no division between East or West, North or South.

67. The Commission had a historic task of responding to the challenge of forging a mighty human rights ideology, as the courageous peoples of the world were doing, reasserting the primacy of their human rights over detractors and violators of those rights.

68. A confluence of events had provided a favourable environment for the Commission to engage in genuine and serious dialogue and negotiations in order to eradicate all human rights violations, particularly the mass and flagrant violations of the right to self-determination and the right to development.

69. In striving to develop new concepts, approaches and mechanisms to meet continuing and complex challenges, the Commission should revert to some of the basic precepts of the Charter of the United Nations and the Universal Declaration of Human Rights, such as the indivisibility of all human rights; the inseparability of peace, justice and development; the need for harmony between rights and freedoms, on the one hand, and responsibilities or obligations on the other, of both States and individuals; the indispensability of international co-operation and solidarity; the inevitability of popular participation; and the need for a just, social and international order in which all rights and freedoms could be fully realized.

70. Underlying all the substantive agenda items before the Commission was the challenge to meet the threat posed by ignorance, ignorance of the basic norms by those who should be protected and by those whose duty it was to ensure the full application of those norms. The Commission had launched a campaign against such ignorance. Everyone present was aware of the efforts made by the

Under-Secretary-General for Human Rights to give effect to the directives of the Commission and the General Assembly, particularly with regard to the strengthening of national infrastructures for the protection of human rights through the provision of advisory services and technical assistance.

71. The Commission would be particularly attentive to the task of creating a universal culture and philosophy of human rights. The World Public Information Campaign on Human Rights, launched by the General Assembly a year previously, was having its effect. It was the Commission's duty to give that campaign the directives that would further enhance its impact.

72. However, the struggle must be carried one step further. The Commission must launch a campaign to transform the Universal Declaration into a universal philosophy and culture of human rights. The cultivation of that culture required popular participation and, in the end, it would help all peoples to realize their inalienable human rights. The role of the non-governmental organizations was crucial in that regard, and their active and constructive participation as partners in the Commission's work could not be over-emphasized.

73. It was also fitting that the Committee was also to consider at its current session its own future and to make recommendations on its organization of work and enlargement of membership. She hoped that the recommendations would be as extensive as they would be profound in their impact.

74. The new phase, symbolically embarked upon at the outset of the current decade, must see an earnest effort by the Commission and other organs to put the Secretariat on a par with other departments. Members were aware of the Herculean efforts being made by the Under-Secretary-General for Human Rights to keep up with the momentum set by the Commission. However, they also realized that they must, through their Governments, ensure that the administrative and budgetary bodies provided him with the means he required.

75. The one concrete manifestation of the Commission's success in fortifying the culture of human rights would be effective results arising from democratic dialogue and a co-operative spirit. Members should be inspired by the thought that there were really no winners or losers in their debates. There could only be victories for human rights.

ADOPTION OF THE AGENDA (item 2 of the provisional agenda) (E/CN.4/1990/1 and Add.1)

76. Mr. de RIVERO (Peru) recalled that operative paragraph 11 of Commission resolution 1989/62 on the human rights situation in Chile provided that the item should be dealt with on the agenda of the current session in the light of developments in that situation. Following the elections held in Chile in December 1989, there was currently a democratically elected, constitutional Government in that country, which was to take office a few days after the close of the Commission's current session. The human rights situation in Chile had improved significantly, and guarantees of civil, political and human rights had been put in place. Accordingly, he proposed that item 5 of the provisional agenda be deleted, and that the report prepared by the Special Rapporteur on the situation of human rights in Chile (E/CN.4/1990/5) be discussed under item 13 of the provisional agenda.

77. Mr. LILLIS (Observer for Ireland), speaking on behalf of the 12 States members of the European Community, said that he supported the proposal by the representative of Peru.

78. Mr. FAN Guoxiang (China) said he had reservations with regard to paragraph 88 of the Annotations to the provisional agenda (E/CN.4/1990/1/Add.1), which mentioned a note by the Secretary-General prepared pursuant to Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1989/5 entitled "Situation in China". That note (E/CN.4/1990/52) had been rejected by his Government.

79. The CHAIRMAN said that, if she heard no objections, she would take it that the Commission wished to adopt the provisional agenda, as orally amended by the representative of Peru.

80. The provisional agenda, as orally amended, was adopted.

The meeting rose at 1.30 p.m.

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COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 30 January 1990, at 10 a.m.

Chairman: Mrs. QUISUMBING (Philippines)

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GE.90-10260/5165A

The meeting was called to order at 10.30 a.m.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3)

1. The CHAIRMAN drew the Commission's attention to a letter from the Secretary-General informing it of actions taken pursuant to Commission decision 1989/113 entitled "Consideration of the report of the mission which took place in Cuba in accordance with Commission decision 1988/106". During the previous 10 months, the Secretary-General had been maintaining ongoing contacts, both written and oral, with the Cuban Government on the issues and questions contained in that report.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (E/CN.4/1990/3 and 4; A/44/352 and 599)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (E/CN.4/1990/10, 11 and 58 and A/44/526)

2. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing agenda item 4, said that the question of the violation of human rights in the Arab territories occupied by Israel had been on the agenda of several United Nations organs since 1968. Since the start of the Palestinian uprising two years previously, those organs had stressed in particular the necessity to initiate urgent measures to improve the human rights of the peoples of the occupied territories.

3. At its forty-fifth session, the Commission had adopted resolutions 1989/1 and 1989/2 A and B with a view to considering the subject again at its forty-sixth session as a matter of high priority. It had also requested the Secretary-General to report at the current session on the measures taken to draw attention to those resolutions and to give them the widest possible publicity. The report prepared by the Secretary-General in accordance with that request was contained in document E/CN.4/1990/3.

4. Document E/CN.4/1990/4 contained a note by the Secretary-General listing all United Nations reports issued between sessions of the Commission which dealt with the living conditions of the population of occupied Palestine.

5. At its forty-first session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had adopted resolution 1989/4 on the situation in the Palestinian and other Arab territories occupied by Israel.

6. At its most recent session, the General Assembly had adopted resolution 44/2 requesting the Secretary-General to examine with urgency the situation in the occupied Palestinian territory. The Assembly had considered the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/44/352 and A/44/599), and had adopted resolutions 44/48 A to G. In those resolutions the Assembly had, inter alia, renewed the mandate of the Committee and changed its name to "the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories".

7. In the course of its first series of meetings, held at Geneva in January 1990, the Special Committee had heard a number of witnesses who had been expelled from the occupied territories, and had adopted a report (A/45/84) prepared in accordance with resolution 44/48 A.

8. Item 9 had been on the Commission's agenda since 1975. At its previous session, the Commission had adopted six resolutions under the item.

9. In its resolution 1989/18, the Commission reaffirmed that the question of Western Sahara was a question of decolonization which remained to be completed on the basis of the exercise by the people of Western Sahara of their inalienable right to self-determination and independence.

10. In its resolution 1989/19, the Commission had reaffirmed the inalienable right of the Palestinian people to self-determination without external interference and the establishment of their independent and sovereign State on their national soil, as well as the inalienable right of the Palestinians to return to their homeland, Palestine.

11. In its resolution 1989/20, the Commission reiterated its condemnation of the persistent occurrence of gross and flagrant violations of human rights in Kampuchea and reaffirmed that the continuing illegal occupation of Kampuchea by foreign forces deprived its people of their right to self-determination.

12. In its resolution 1989/22, the Commission called upon all States to implement fully and faithfully the resolutions of the United Nations, in particular General Assembly resolution 1514 (XV). It had reaffirmed the inalienable right of the people of Namibia to self-determination, freedom and national independence in a united Namibia, including Walvis Bay and the offshore islands. It had also reaffirmed the legitimacy of the struggle of the oppressed people of South Africa and its national liberation movements by all available means, including armed struggle, for the elimination of the apartheid system and the exercise of the right of self-determination by the people of South Africa.

13. In its resolution 1989/23, the Commission welcomed the completion of the withdrawal of foreign troops from Afghanistan and called upon all parties concerned to work for the urgent achievement of a comprehensive political solution which would enable the Afghan refugees to return voluntarily to their homeland. The Commission had also called upon all States to provide adequate financial and material resources to the Special Co-ordinator for Humanitarian and Economic Assistance relating to Afghanistan.

14. He drew attention to resolutions 44/79 and 44/80 in which the General Assembly reaffirmed that the universal realization of the right of all peoples to self-determination was a fundamental condition for the effective guarantee and observance of human rights. The Assembly had requested the Commission to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation.

15. The Commission, in its resolution 1987/16, had decided to appoint aSpecial Rapporteur to examine the question of thse of mercenaries. Subsequently, the Chairman of the Commission had appointed Mr. Enrique Bernales Ballesteros (Peru) as Special Rapporteur on that question.

16. In 1988, the Commission had decided to extend the mandate of the Special Rapporteur for another two years and requested him to submit a preliminary report to the Assembly at its forty-third session. In that report, the Special Rapporteur described a visit which he had made to Angola and analysed acts of mercenarism brought to his attention as a factor in the struggle for self-determination in southern Africa.

17. At its forty-fifth session, the Commission had considered the third report by the Special Rapporteur, focusing on his visit to Nicaragua in late 1988 and describing the position of the Nicaraguan Government with regard to mercenary activities in its territory.

18. Following that mission, the Special Rapporteur had visited the United States of America in July 1989 and held discussions with Government officials and representatives of non-governmental organizations. An account of that visit was contained in document E/CN.4/1990/11.

19. Mr. RAMLAWI (Observer for Palestine) recalled that, in its resolutions 1989/2 A and B, the Commission had called upon Israel to withdraw from the Palestinian territories occupied by force and to desist from its practices which were in violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949. The Secretary-General had informed the Government of Israel of the grounds for those resolutions, particularly with regard to the right of the Palestinian people to self-determination.

20. None the less, the Government of Israel had not yet replied to the Secretary-General, a fact which highlighted Israel's stubborn rejection of the resolutions of the Commission, the General Assembly and the Security Council, and its persistence in implementing its policies in defiance of the wishes of the international community.

21. At its previous sessions, the Commission had discussed the Israeli policies which were in violation of the 1949 Geneva Convention, including the murders of Palestinians, the confiscation of Palestinian lands and the use of tear gas causing Palestinian women to miscarry. Since the previous session of the Commission, Israeli crimes against the Palestinian people had continued. The number of martyrs had reached 1,080, including 450 persons under 18. More than 58,000 persons had been wounded, including 7,500 disabled, of whom 2,500 were children. The number of Palestinian prisoners exceeded 64,500, including 9,000 administrative detainees. Since the beginning of the Palestinian uprising in 1987, more than 60 persons had been deported.

22. International press reports and the reports by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories by Amnesty International and by the International Committee of the Red Cross had all confirmed the Israeli practices in the occupied Arab territories. The Chairman of the Special Committee, in a letter to the Secretary-General, had mentioned the deaths of hundreds of civilians of all ages from bullet wounds, electric shocks and other causes, the system of military justice which provided no legal guarantees to Palestinian detainees, and the imprisonment of thousands, including women and children, in inhuman conditions.

23. The Chairman of the Special Committee had expressed concern that, after 21 years of Israeli occupation, the international community had not yet been able to take effective measures to protect the human rights of Palestinian civilians or to put an end to Israeli's violations of the provisions of the Charter, United Nations resolutions and the principles of international law. Israel was the most flagrant example of a State Member of the United Nations which consistently rejected the obligations incumbent upon it. If every Member State acted in the same way, there would be reason to question the value of the lofty principles upon which the United Nations was founded. The international community as a whole was being threatened by the unlimited military and political support which the United States of America provided to Israel, particularly when the need arose for international measures to deter Israel from its violation of the principles of international law, as had frequently happened in the Security Council.

24. The Palestinian people, which had been suffering under Israeli occupation, had a responsibility to resist that occupation until it recovered its national rights, particularly its right to self-determination and to the establishment of a Palestinian State on its national soil.

25. The State of Palestine had submitted its instruments of accession to the 1949 Geneva Convention. That step had been widely welcomed at the international level, especially by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities and the Ninth Summit Meeting of the Movement of Non-Aligned Countries, held at Belgrade.

26. Mr. GLAIEL (Observer for the Syrian Arab Republic) said that the situation in the occupied territories had not benefited from the new international climate of détente and understanding. His Government paid tribute to the heroes of the intifadah, who, rejecting Israeli occupation and remaining true to their Arab identity, were struggling to live in freedom on the land of their birth and to enjoy the legitimate rights that had been usurped by force.

27. Israel was continuing its policy of annexation and settlement and had stepped up its repressive and terrorist practices. Hundreds of women, children and old people had been killed, thousands wounded and tens of thousands detained and tortured. Deportations, the demolition of houses and collective sanctions were also on the increase. The Israeli authorities were interfering with the Commission's work by preventing its members from visiting the occupied territories.

28. The Israeli policies and practices, which were in flagrant violation of the human rights of the Palestinians, constituted war crimes and genocide and, as such, were punishable under international law. Israel was conducting a racist policy, and in that context, General Assembly resolution 3379 (XXX) had rightly condemned zionism as a form of racism. For its part, the intifadah would continue until the Palestinians established an independent State in their own homeland.

29. Israel's aim was to Judaize the occupied Syrian Golan and to impose its own laws. The citizens there were being separated from their ancestral land and their homes demolished. Israel had established 42 new settlements, and the social, cultural and structural fabric of the area was being modified in violation of Security Council resolution 497 (1981) and resolution 1/9 adopted

by the General Assembly at its ninth special session. Collective punishment was imposed, and Israel was exploiting the area as a source of cheap labour. All those practices were in violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949.

30. Israel wanted both land and peace; a policy that was doomed to failure. Relying on ancient documents, its rulers cherished the dream of a Greater Israel from the Nile to the Euphrates in defiance of the United Nations Charter and resolutions calling for Israel's withdrawal from the occupied territories. The Israeli rulers made constant references to Nazi crimes that had taken place 45 years previously, and yet at the same time they continued to perpetrate crimes against Arabs, and there was no end in sight. There would be no international peace and security until Israel gave up its racist policies and unjust dreams.

31. Mr. KASRAWI (Observer for Jordan) said that the human rights situation in the occupied Arab territories had deteriorated over the past year: Israel had stepped up its repression and, in the wake of the intifadah, hundreds had died, thousands had been wounded and tens of thousands had been detained. The Israeli authorities had escalated their policy of collective punishment, demolishing houses, sealing off villages from the outside world, imposing economic measures, deporting Palestinians and stepping up terrorist practices. In addition, eight new settlements had been established. Israel was blatantly conducting a policy of colonization, exerting pressure on the Palestinians to leave so that they could be replaced by Israelis. But the Palestinians were courageously opposing the repressive measures of the occupation authorities, whose practices were in violation of the Fourth Geneva Convention of 1949 and in total disregard of repeated international appeals. It was therefore essential to take international steps to compel Israel to apply all the provisions of the Fourth Geneva Convention.

32. The Commission on Human Rights had a moral obligation to ensure that the Israeli occupation did not become a fait accompli. Israel must be made to accept the legitimate rights of the Palestinian people, and an international peace conference must be convened to achieve that objective.

33. Mr. HARUN UR-RASHID (Bangladesh) said that the international community's great concern at the continuing deterioration in the human rights situation in the occupied Arab territories, including Palestine, was reflected in the priority the Commission had accorded the subject for over 20 years and the unreserved condemnation expressed in that and many other forums inside and outside the United Nations system. It was realized more than ever that the time had come for the Commission to take urgent action with a view to ending the sufferings of the Palestinian people.

34. The situation in the occupied West Bank and Gaza Strip had deteriorated gravely over the past few months, the frequency and enormity of human rights violations having surpassed all previous records. The Israeli authorities, in their attempts to suppress the spontaneous popular uprising of a people struggling to recover its inalienable rights, had resorted to measures such as arbitrary arrest, beating, detention without trial, deportation, collective punishment and mass reprisals which defied all accepted international standards and affronted human dignity.

35. The report of the Special Committee (A/44/599) vividly described the occupying Power's ruthless application of a policy of terror and oppression. The Special Committee was to be commended on the work it had carried out despite the lack of co-operation that Power. Its report would help all concerned to appreciate the gravity of the situation.

36. The Government and people of Bangladesh were deeply shocked by the unmitigated and continued violence and oppression being perpetrated on the unarmed civilian population of the occupied West Bank and Gaza Strip. Bangladesh had unequivocally condemned the Israeli occupation forces' atrocities and expressed its solidarity with the Palestinian people in its struggle to achieve its inalienable right to establish a sovereign, independent State under the leadership of its sole legitimate representative, the Palestine Liberation Organization.

37. Without that achievement, the problem could not be eradicated. Bangladesh therefore fully supported the convening of an international conference on the Middle East, under United Nations auspices, with the participation of all parties directly concerned, including the Palestine Liberation Organization, on an equal footing, and was ready to extend full support to the Secretary-General in his efforts to that end.

38. The Commission could not remain silent in the face of the rapidly deteriorating human rights situation in the occupied territories, but it should not despair either. By intensifying pressure on the occupying régime through the mobilization of world public opinion and other measures, it could help the oppressed people of the occupied Arab territories and hasten the end of their sufferings. In that connection, his delegation noted with appreciation the Secretary-General's follow-up action pursuant to Commission resolutions 1989/2 A and B.

39. While the Commission's immediate concern was to prevail upon the Israeli authorities to cease violating human rights forthwith in the occupied Arab territories, its ultimate aim must be to restore to the Palestinian people its fundamental, legitimate and inalienable rights, the denial of which continued to afflict the conscience of the entire international community.

40. Mr. AL-OTHMAN (Observer for Kuwait) said the fact that the intifadah of the Palestinian people had entered its third year showed that the event was not merely a brief outburst but an expression of that people's constant and unshaken will to achieve self-determination and establish an independent sovereign State. The world Zionist movement continued its efforts to mislead world public opinion about the situation in the occupied territories, but the activities of the occupying forces and settlers had recently exceeded all imaginings. The excesses perpetrated - including the breaking of limbs, the use of toxic gases, the blowing up of homes and forcible expulsions - stemmed from a systematic policy about which it was impossible to remain silent.

41. The Palestinians were struggling for the exercise of the right to self-determination upheld by the Commission. That goal was far from the situation the Zionists seemed prepared to accept; but the Palestinians had only stones with which to confront a heavily armed force of occupation. As for negotiation, it was unacceptable that one party should claim the right to choose who should represent the other.

42. The Israeli authorities, despite their prevarication and contempt for any procedures aimed at achieving a just settlement, were under growing pressure to desist from their practices, arising not only from the Palestinian people's continued struggle but from growing international concern; for example, the European Parliament had recently refused to strengthen its scientific ties with Israel because of the latter's acts of repression in the occupied Arab territories. In that connection, it was deplorable that, contrary to the majority view of world public opinion, one State, supposedly a standard-bearer of freedom and human rights, was exercising the right of veto against the adoption of a draft resolution condemning Israel's repressive acts in the occupied territories.

43. One particularly serious malpractice was to be seen in Israel's attacks on the holy places of Islam in those territories. Shaikh Jaber Al-Ahmad Al-Sabah, Amir of the State of Kuwait, as Chairman of the Organization of the Islamic Conference at its fifth session had voiced the Organization's concern at the Zionists' provocative action in attempting to lay a foundation stone for the new Temple of Solomon on the site of the Al Aqsa mosque in Jerusalem, and had appealed, on behalf of the Conference, to all States and world institutions, especially the United Nations, to speak out against such a blatant attack on freedom of religion, especially at a time when all possible attempts should be made to end the explosive situation in the region and bring about peace and security.

44. Israel had also inflicted untold suffering on the Lebanese people for the past 14 years, violating the country's territorial integrity and thwarting all attempts by Arab nations to negotiate an end to the strife there. The Lebanese people would never have stability until Israel ceased its aggression against that country's sovereignty; the world community must force Israel to withdraw completely in accordance with the relevant Security Council resolutions. The Arab population in the occupied Syrian Golan Heights likewise continued to suffer from the Israeli occupiers' aggressive acts.

45. His delegation was grateful to the Special Committee for its continued vigilance in reporting on the deteriorating human rights situation in the occupied Arab territories. It hoped that the Israeli authorities could be induced to cease refusing to recognize the Committee and to co-operate with it in the future.

46. Mr. PHEKO (Observer, Pan Africanist Congress of Azania) said that the right to self-determination, enshrined in the Charter, was not only a fundamental human right but a prerequesite for full enjoyment of the other rights. It disturbed his delegation, therefore, that reference was never made to South Africa as a country whose indigenous people had that right; indeed, in some cases self-determination seemed to be confused with secession, which was contrary to Article 2, paragraph 7 of the Charter.

47. South Africa was not a sovereign State and should be considered as a country under colonial or alien rule or foreign occupation. The story of apartheid was that of a dispossessed people whose country had not been decolonized. Apartheid stemmed direct from the colonial policy of the United Kingdom - a policy which seemed to have been the most racist in Africa's entire colonial history. History showed that there had been no apartheid in Azania, currently named South Africa, before the advent of European colonialism and aggression.

48. What was currently called South Africa had been created by the South Africa Act of 1909, which united and strengthened four British colonies to the benefit of settlers and against the colonized Africans. According to a 1904 census, Azania had then contained over five million indigenous Africans and 349,837 colonial settlers; but political power had been transferred by the United Kingdom not to the Africans, so as to restore their right to self-determination, but to the minority of colonial racists, some of whom had later become Nazis and still were.

49. Pursuant to the Act of 1909, only property-owning Africans in the Cape Colony (about 10 per cent) had held the right to vote; and even that very limited right had been abolished in 1936 under article 35 of the same Act, leaving over 75 per cent of the population of Azania disfranchised, despite a clause in a United Kingdom statute of 1865 which empowered a United Kingdom Government to disallow any repugnant legislation in its colonies. In current international law, the denial of such a right to vote was a violation of jus cogens.

50. The provisions of the Act of 1909 had prevented Africans from standing for election. The creation of South Africa had been clearly intended, as stated by Sir George Grey, a colonial governor, to create a strong federal government by the European races in South Africa, for the maintenance of the United Kingdom's possessions in the region. To judge from the debate on the bill in the United Kingdom Parliament, the intention had been to rule black Africans as a subjugated people, as they were still being ruled in South Africa.

51. Another consideration, of course, had been control by white colonial settlers of the wealth discovered in the region. The Africans had been deemed "a danger", and therefore were never to have been allowed to regain control of their country and its natural resources.

52. Further oppressive measures had been enacted by the Land Act of 1913. Africans had been robbed of eighty seven and a half per cent of the total land area of the country and allocated only twelve and a half per cent of the so-called "native reserves", which had subsequently become the Bantustans or so-called "homelands". The effect had been to reduce the life-expectancy of the African people as a result of increased poverty, disease, malnutrition and child mortality, as well as to impede political, economic, educational and technological progress.

53. Thus the situation in South Africa had from its very inception, been one of disguised slavery, the most barbarous form of colonialism and foreign occupation; it was no wonder that the oldest human rights organization, the British Anti-Slavery and Aborigines Protection Society, had objected so strongly to the creation of South Africa in 1910. That situation was the worst colonial scandal of the twentieth century.

54. Azania's dispossessed and oppressed people rejected with contempt any notion that its country, colonially renamed South Africa in 1910, had no right to self-determination. That people constituted an overwhelming majority and utterly rejected the tyranny of a racist colonial régime which represented a mere 13 per cent of the population. His organization claimed the right of Azania to self-determination, so that racist colonial tyranny and apartheid

could be buried; it regarded all white persons in Azania who acknowledged allegiance to Africa alone, and accepted the democratic rule of the indigenous majority, as Africans entitled to all the individual rights of citizenship.

55. As the representative of India to the Security Council had stated in 1961, in connection with India's claim to the then Portuguese colony of Goa, the tenets of international law quoted by colonial Powers in support of their rights over territories won by conquest in Asia and Africa were no longer acceptable.

The meeting rose at 12.25 p.m.

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COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 31 January 1990, at 10 a.m.

Chairman: Mrs. QUISUMBING (Philippines)

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The meeting was called to order at 10.30 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1990/3, 4 and 59; A/44/352 and 559)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1990/10, 11 and 58 and A/44/526)

1. Mr. AL-FARSY (Observer for Oman) said that, despite the positive developments in the international climate, a number of problems still defied solution and threatened international and regional peace and security. Human rights were still being violated. The principles of the Charter and the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Geneva Conventions and the relevant General Assembly resolutions reaffirmed the importance of human rights. Nevertheless, the international information media contained reports of continuing violations of human rights in the occupied Arab territories and South Africa.

2. The international community still called for the establishment of a legal system which would guarantee the freedoms and rights of the individual as well as his obligations not only towards himself but also towards his society and would not differentiate between people on the basis of sex, colour or origin. In that connection, it should be noted that the principles of human rights were guaranteed by Islam and the teachings of the Koran and the Prophet.

3. Freedom of opinion, which was the loftiest freedom to which mankind could aspire, would soon disappear if it was used to violate principles in a manner contrary to the good of mankind and inconsistent with the values of society. The intifadah, which had been waged against the Israeli occupation forces for more than 26 months, demonstrated the determination of the Palestinians to recover their legitimate rights and to establish an independent State in which they could live in peace and security with the other peoples of the region.

4. The continued violation of the rights of the Arab people in the occupied territories, which included the killing of women and children, subjection of entire villages and camps to living conditions designed to destroy them, detention of thousands of Palestinians, forceable deportation, and confiscation of property, constituted a clear infringement of international law. The perpetrators of those violations were being supported by influential forces in the international community which were precluding the adoption of resolutions condemning their actions.

5. South Africa was pursuing the same policy but the racist régime had come to realize that a racist State had no future and was therefore seeking to establish a dialogue with the black majority. However, Israel still did not recognize or believe in human rights, as reflected by its various forms of repression, persecution and murder perpetrated against the Palestinian Arab people.

6. The events taking place in Eastern Europe demonstrated that the people of the world no longer condoned injustice. The winds of change from those countries would certainly reach the occupied Arab territories and South Africa one day.

7. In conclusion, he referred to the peaceful approach adopted by the Palestinian leadership with a view to promoting peace and security and to enabling the Palestinian people to regain their inalienable rights. He expressed the hope that the majority in South Africa would be able to exercise their legitimate rights so that they could live in peace and security.

8. Mr. ELARABY (Observer for Egypt) said that Article 1 of the Charter of the United Nations stressed the importance of strengthening human rights and fundamental freedoms for all without any distinction whatever. In the contemporary world, respect for human rights and fundamental freedoms had become an important issue, a situation which reflected the deep-rooted conviction that such respect was indispensable for ensuring international peace and progress.

9. The final months of 1989 had been a revolutionary turning-point in international relations. In that regard, he referred to the rapid political changes taking place in Eastern Europe and in the concepts and principles that had prevailed since 1945.

10. He wondered whether those positive changes would be restricted to one region or extended to include all the States of the world. If the general trend in the Commission at the current session was in favour of conducting a comprehensive survey of human rights violations, then members would have to give prominence to the question of the occupied Arab territories. The international community had a responsibility to find the best way of bringing pressure to bear on Israel, particularly since the mass information media and reports by United Nations bodies, the International Committee of the Red Cross and non-governmental organizations showed clearly the continued escalation and implementation of a policy designed to change the character of the occupied territories. In that connection, he referred to the most recent report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/44/599).

11. In October 1989, the Secretary-General had appointed Mr. Blanchard, the former Director-General of the International Labour Organisation, to act as his special adviser on humanitarian assistance to and economic development in the occupied territories. Mr. Blanchard's mandate included proposing ways and means to provide urgent humanitarian assistance to those territories and establishing methods for co-ordinating the activities of the various United Nations bodies operating there. It was regrettable that Israel's reaction to the Special Adviser's mission was still a negative one and that it refused to receive him since it considered that his mission was untimely and would serve no useful purpose.

12. The occupied territories were not unoccupied areas that Israel could dispose of as it wished. Article 22, paragraph 4, of the Covenant of the League of Nations provisionally recognized the right of the population of Palestine, under a Mandatory, to exist as an independent nation. Members

should also recall that, by resolution 181 of 1947, the General Assembly had provided for the establishment of two States and not just one in Palestine.

13. The rules of international law stipulated that Israel's occupation of the Arab territories should be temporary only and that it should during the occupation comply with the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (the Fourth Geneva Convention). All States parties had to respect the provisions of that Convention and undertake not to adopt any measures that might lead directly or indirectly to a violation thereof. That undertaking should be applied to the settlement of immigrants in the occupied territories and his delegation hoped that the Commission would give careful consideration to the matter.

14. Migration was a legitimate right to which no one could object. In that connection, he referred to article 13, paragraph 2, of the Universal Declaration of Human Rights. However, attention should also be drawn to article 49 of the Fourth Geneva Convention, under which an occupying Power was not permitted to deport or transfer parts of its own civilian population into the territory it occupied. His delegation encouraged migration but was concerned that the international community was disregarding its collective responsibility. It therefore called on all members of the international community to respect their obligations under the Fourth Geneva Convention.

15. Sincere efforts were being made to initiate a Palestinian-Israeli dialogue as a first step towards peace in the region. His delegation believed that a historic opportunity to find a peaceful solution existed in view of the resolutions adopted by the Palestinian National Council at Algiers in November 1988, the acceptance by the Palestinians of Security Council resolutions 242 and 338, and the realistic and positive approach adopted by the Palestinian leadership.

16. In May 1989, Israel had proposed the holding of elections in the West Bank and the Gaza Strip. No one, of course, objected to the principle of holding such elections. However, it would be necessary to draft regulations to ensure that the elections were fair and linked to a final settlement. His Government had proposed a meeting between the Palestinians and Israelis at Cairo and consultations were currently being held with a view to the organization of that meeting. He hoped that those endeavours would lead to the beginning of a Palestinian-Israeli dialogue directed towards a comprehensive and just settlement of all aspects of the question of Palestine.

17. However, Israel was still reluctant to support the efforts made to establish peace and continued to place one obstacle after another in the way of genuine progress.

18. It seemed that Israel was unaware of the significance of recent international developments. Otherwise, it was impossible to explain why, at a time when the Palestine Liberation Organization was acting wisely and rationally with broad international support, Israel responded to those positive initiatives by continuing to disregard the principles of international law and the relevant resolutions of the General Assembly, the Security Council and the Commission on Human Rights.

19. In conclusion, he said that the resolutions of the Security Council and other bodies calling for the termination of Israel's occupation of the Arab territories in the West Bank, the Gaza Strip, eastern Jerusalem and the Golan Heights must be implemented and the right of the Palestinian people to self-determination and the establishment of a Palestinian State recognized so that the Middle Eastern region could enjoy a just and lasting peace.

20. Mr. DAYAL (India) said that the question of Palestine had been on the agenda of the United Nations for more than four decades. The United Nations and the Commission had repeatedly condemned the human rights violations to which the Palestinian people had been subjected. They had also reaffirmed the right of the Palestinian people, more than 60 per cent of whom lived in exile, to an independent homeland. Despite repeated censure, the Israeli Government had persisted in stifling the legitimate aspirations of the Palestinian people.

21. Israel was the occupying Power under the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the Hague Convention of 1907. Occupation itself constituted a violation of the human rights of the civilian population; it had led to the imposition of Israeli laws in the occupied Arab territories, the establishment of new settlements, the displacement of the indigenous Arab inhabitants and the denial of their right to return, the confiscation of their property, the physical transformation of historic sites and the desecration of religious places, the imposition of collective fines, the ill-treatment and torture of detainees, including children, and a range of other abuses. Over the years, efforts had continued to alter the ethnic and demographic composition of the occupied territories and to destroy the very basis of the existence of the original inhabitants.

22. The most recent reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/44/352 and 599) showed that the climate of tension had intensified. The reports documented a range of human rights violations resulting from measures adopted by the Israeli authorities to quell the Palestinian uprising. According to paragraph 16 of document A/44/352, by September 1988 more than 250 persons had been killed in the territories, as compared with 8 in 1986 and 22 in 1987.

23. The rights of the Palestinians must prevail in any just and permanent settlement in the occupied territories, including Palestine. It was only when the Palestinians became masters in their own house that all States in the region would be able to live within secure international frontiers. It must be recognized that the problem was basically political, not merely humanitarian. Most members of the Commission had welcomed the proclamation of the State of Palestine. Recent initiatives by the Palestine Liberation Organization (PLO) and the initiation of a dialogue between the PLO and the United States of America should give further impetus to efforts to resolve that long-standing problem.

24. A just and durable solution could not be found without Israel's withdrawal from the Palestinian and Arab territories occupied since 1967 and the exercise of the inalienable rights of the Palestinian people, including their right to self-determination and to establish an independent Palestinian State in their homeland.

25. The convening of an International Peace Conference on the Middle East under United Nations auspices would provide the best opportunity for achieving durable peace in the region. It was encouraging to see that many who had earlier been opposed to such an idea had come to realize that it was the best route to a lasting solution. His delegation hoped that the Secretary-General's efforts to continue a process of discussions with the permanent members of the Security Council and those directly concerned would be successful.

26. His country's support for the Palestinian cause was unstinting and consistent. The struggle of the Palestinian people had entered a critical phase. Despite all the violence directed against the intifadah, it had not been crushed. The Commission should renew its efforts to obtain justice for the people of the occupied territories. The Palestinian people could not for long be denied their legitimate rights.

27. Mr. ABDULLAH (Observer for the United Arab Emirates) said that the right to self-determination was one of the most lofty principles embodied in the Universal Declaration of Human Rights. Most peoples of the world, after some struggles, had managed to secure that right. However, the Israeli occupation authorities were still stubbornly and viciously refusing to recognize the most fundamental human rights of the Palestinian people, including the right to self-determination. They had deprived the Palestinians of their land, dignity and identity, displaced and tortured them, stolen their natural resources, usurped their heritage and imposed martial law against them.

28. Accordingly, the Palestinian people had risen up in revolt, calling for an end to the most brutal forms of oppression, such as murder, ill-treatment, collective punishment, arbitrary arrests, the breaking of bones, the use of tear-gas causing Arab women to have miscarriages, and other heinous acts. Through press reports, world public opinion was being made aware on a daily basis of the determination of the Palestinian people to achieve its national objectives and full rights, particularly the right to return, to self-determination and to establish its own State on its soil under the leadership of the Palestine Liberation Organization (PLO), its sole legitimate representative.

29. The occupation forces would not be able indefinitely to repress the fundamental and inalienable rights of the Palestinian people, or to deny the resolutions of the General Assembly, the Security Council and the Commission. Nor would they be able to continue to violate international law or to refuse to implement the Geneva Conventions in the occupied Arab territories, including Jerusalem and the Golan.

30. After 15 years of fighting and destruction, and following the election of a new President and the formation of a new Government, Lebanon was trying to embark on a path leading to peace, justice and harmony, and the recovery by the Lebanese State of jurisdiction over all its territory. There was no doubt that the continued Israeli occupation of part of southern Lebanon, its repeated air raids and constant military attacks, were in violation of international law, the principles of human rights and United Nations resolutions, and were a fundamental obstacle to the process of peace and reconciliation.

31. The recent international détente would strengthen respect for the principles of human rights, primarily the right to self-determination, as well as the role of the United Nations and other international organizations. In order that all peoples of the world might enjoy the right to self-determination, his Government called for the continuation of the policy of détente with a view to achieving progress in peace and disarmament, economic and social development, and the promotion of human rights and international law as a basic source of legislation governing relations between nations and peoples.

32. Mr. MacDERMOT (International Commission of Jurists) said he wished to draw the Commission's attention to three matters concerning the Israeli occupation of the West Bank and Gaza Strip, namely, road plans, a new wave of expulsions and illegal taxation practices.

33. First, under international law, it was lawful for an occupying Power to construct roads to meet the needs of the people of the territory. On the other hand, it was not lawful to construct roads to benefit the occupying Power and/or its settlers. A new road plan recently published in the occupied territory would link the West Bank with nine access points on the boundary between the West Bank and Israel. It was clearly not intended to benefit the Palestinian inhabitants of the West Bank.

34. Secondly, a new wave of expulsions from the West Bank and Gaza Strip, mainly of women and children, had begun. The Israeli authorities claimed that the persons whom they had expelled were living illegally in the occupied territories. Many of those persons had been born in the villages in which they lived, but were not regarded as residents because they had not been in their villages at the time of the 1967 census. Over the last few months, some 200 persons had been deported from the Ramallah region alone. Cases had been brought before the Israeli High Court of Justice, but the Court had confirmed the legality under Israeli law of the inhuman deportation procedures, which often involved separating husbands from wives and parents from children.

35. Thirdly, his organization was concerned at the practice adopted by the Israeli tax authorities of seizing household goods in lieu of taxes in the occupied West Bank. Under international law, all revenue collected in occupied territories had to be returned to that territory in the form of services for the occupied population. Moreover, the collection of taxes, including due process and enforcement, should be in accordance with the laws in force at the time of occupation. No figures had been published by the occupying authorities of the amounts collected or the way in which they had been spent. At least two new, illegal, taxes had been introduced, namely, a value-added tax and a special tax on cars. All such actions were in violation of international law. He requested the Commission to call upon the Israeli Government to cease such illegal practices.

36. His organization was about to publish a report of a mission sent in July 1989 to inquire into the Israeli military court system in the occupied territories. The members of the mission had been very concerned at the numerous reports which they had received of the continuing use of torture against detainees.

37. Mr. LITTMAN (World Union for Progressive Judaism) said that, while isolated violations of human rights had occurred, and might still be occurring, in the areas administered by Israel since 1967, similar and far worse violations, which were rarely debated, occurred regularly within the great majority of countries represented on the Commission. Yet in Israel's democracy - the only true democracy in the Middle East - such deplorable acts, whether carried out by individuals or groups, were regularly denounced by Israeli human rights organizations and the media. Offenders who were found guilty in Israeli courts of law were sentenced and gaoled.

38. Under agenda item 4, speakers had revelled in gross exaggerations or omissions, while totally ignoring cause and effect. The credibility of those and other, more moderate, statements would be enhanced if representatives condemned the grave violations of human rights committed against Israeli civilians and, in the previous year, by Palestinians against other Palestinians in the occupied territories. Nearly 200 Arab men, women and children had been assassinated in the cruellest manner by moralistic murder squads.

39. In a recent public forum held at Geneva, a spokesman for the Palestine Liberation Organization (PLO) had expressed concern at such indiscriminate killings of Palestinians by Palestinians but had reminded the audience of several hundred persons, which included members of the Palestinian Observer Mission to the United Nations, that 500,000 of the 1 million Algerian dead in the Algerian war of independence had been killed by other Algerians.

40. While he was personally unable to vouch for the accuracy of that figure, he could imagine how tragic the situation would be in the territories currently under discussion if the number of the Palestinians killed by Palestinians rose to the level of the fratricidal conflict which had occurred in that area under the British mandate 50 years previously. The number of victims put to death by vigilante terrorist groups would rapidly rise from 200 to several thousand.

41. There could be no doubt that the continuation of the intifadah through the deliberate incitement to violence of children and adolescents in violation of fundamental humanitarian principles was a moral aberration. It was a short-sided and suicidal policy which, if continued, must eventually lead to the total disintegration of Palestinian society in the territories and to worse human rights violations. Concerned independent observers were slowly realizing that the various Palestinian leaderships were continuing to follow a dead-end road and were more interested in achieving their political aims than in building a realistic future for their people.

42. The Islamic resistance movement Hamas was slowly emerging as a major political and terrorist force in the territories. Its goals were outlined in its constitution, which was a blueprint for genocide. In the first partially democratic elections held in Jordan since 1967, Islamic fundamentalist groups had won nearly 40 per cent of the seats. Their policy could be summarized as an Islamic jihad (holy war) against Israel, until its disappearance as a State. The Hamas movement in the administered territories had a similar goal.

43. Those developments were one more sign of the precariousness of the current situation. Almost no trust or confidence remained on which to build peace and reconciliation. Another example stemmed from the previous session of the General Assembly, at which all the Arab States, with the exception of Egypt, had tried and failed for the eighth consecutive year to exclude Israel from the United Nations.

44. There was one simple way to break the barrier of distrust: Israel's election proposal for the territories should be accepted immediately by the Palestinians and their allies. Simultaneously, the Arab League, and the Arab States individually, should adopt a different attitude towards Israel and zionism, the recognized national liberation movement of the Jewish people. One of the first steps would be for the PLO and the Arab States to agree not to oppose an eventual initiative by the United States of America and the Union of Soviet Socialist Republics to render obsolete General Assembly resolution 3379 (XXX) equating zionism with racism. It would be timely for those European States which had recently recovered their freedom to express their views on that issue soon, perhaps at the current session of the Commission.

The meeting rose at 11.50 a.m.